

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT HOFFMAN #181813,

Plaintiff,

vs.

**STACEY NEVES and VICKIE
CARLSON,**

Defendants.

2:17-CV-13263-TGB

**ORDER OVERRULING
DEFENDANT'S OBJECTION
TO MAGISTRATE ORDER**

On August 6, 2019, Defendants Carlson and Neves filed a summary judgment motion. ECF No. 84. On August 30, 2019, United States Magistrate Judge Stephanie Dawkins Davis struck Defendants' summary judgment motion as it pertained to Defendant Carlson for failure to obtain leave of Court prior to filing a second summary judgment motion. ECF No. 87. On September 10, 2019, Defendant Carlson filed an objection to the Magistrate Judge's August 30, 2019 Order. ECF No. 88. Plaintiff filed a response. ECF No. 90. Defendant Carlson filed a reply. ECF No. 91.

When a litigant objects to a magistrate judge's ruling on a non-dispositive pretrial matter, the court may "modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a). The "clearly erroneous" standard does not permit a district court to reverse the magistrate judge's finding simply because it would have decided the issue differently. *Anderson v. City of Bessemer, N.C.*, 470 U.S. 564, 573 (1985). Rather, a "finding is 'clearly erroneous' when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948).

In this case, the Magistrate Judge struck Defendant Carlson's second summary judgment motion because Defendant Carlson failed to seek leave of Court before filing a second summary judgment motion. Local Rule 7.1(b)(2) provides that "[a] party must obtain leave of court to file more than one motion for summary judgment." E.D. Mich. LR 7.1(b)(2). Defendant Carlson failed to comply with Local Rule 7.1(b)(2). Thus, the Order striking Defendant Carlson's second summary judgment motion was not clearly erroneous or contrary to law. Defendant Carlson's

objection to the Magistrate Judge's August 30, 2019 Order is
OVERRULED.

DATED this 12th day of November, 2019.

BY THE COURT:

/s/Terrence G. Berg

TERRENCE G. BERG

United States District Judge